



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CEPR-P (715)

19 July 2004

MEMORANDUM FOR ALL USACE COMMANDS (DIRECTORS/CHIEFS OF
CONTRACTING)

SUBJECT: PARC Instruction Letter (PIL) 2004-12, Department of Labor All Agency
Memorandum #197, Service Contract Health and Welfare Fringe Benefits Changes

1. Reference DAJA-KL Memorandum dated 27 May 2004, Subj: Department of Labor
All Agency Memorandum #197, Service Contract Health and Welfare Fringe Benefits
Changes (enclosed).
2. Referenced memorandum is provided for your information and necessary action as
appropriate.
3. CEPR POC: Dave Petersen, 202-761-0327.

FOR THE COMMANDER:

Encl

Bunnatine H. Greenhouse
BUNNATINE H. GREENHOUSE
Principal Assistant Responsible
for Contracting



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1777 NORTH KENT STREET
ROSSLYN, VA 22209-2194

REPLY TO
ATTENTION OF:

DAJA-KL

27 May 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Department of Labor All Agency Memorandum # 197, Service Contract
Health and Welfare Fringe Benefits Changes

Enclosed is a copy of Department of Labor, Wage and Hour Division's All Agency Memorandum # 197, which explains the changes to the Service Contract act Health and Welfare Fringe Benefits that will be effective as of June 1, 2004. Please pass this information to each contracting office in your command.

Thank you for your assistance in this matter. If you have any questions regarding the Memorandum, please contact the undersigned at (703) 588-6754 (DSN prefix 425) or by e-mail at Alfred.Moreau@hqda.army.mil.

ALFRED E. MOREAU
Labor Advisor
ASA (ALT)

Director, Army Contracting Agency, ATTN: SFCA, Ms. Sieber,
5109 Leesburg Pike, Falls Church, VA 22041-3201

✓ Commander, U.S. Army Corps of Engineers, ATTN: CEPR-ZA,
441 G Street NW, Washington, DC 20314

Commander, U.S. Army Materiel Command, ATTN: AMCCP,
9301 Chapek Road, Fort Belvoir, VA 22060-5527

Commander, U.S. Army Military District of Washington, 9410 Jackson Loop,
Suite 201, Fort Belvoir, VA 22060-5134

Commander, U.S. Army Pacific, ATTN: APAM, Fort Shafter, HI 96858-5100

Chief, National Guard Bureau, Departments of the Army and the Air Force,
ATTN: NGB-CP, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231

Commander, Military Traffic Management Command, 200 Stovall Street, Building II,

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Commander, U.S. Army Medical Command, Health Care Acquisition Activity,
ATTN: MCAA, Bldg. 2792, 2050 Worth Road, Suite 37,
Fort Sam Houston, TX 78234-6037

Commander, U.S. Army Medical Research Acquisition Activity, 620 Chandler Street,
ATTN: MCMR-AAA-C, Fort Detrick, MD 21702-5014

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210



May 24, 2004

ALL AGENCY MEMORANDUM NUMBER 197

TO: All Contracting Agencies of the Federal Government and the District of Columbia

FROM: Tammy D. McCutchen
Administrator

SUBJECT: Service Contract Act Health and Welfare Fringe Benefit Changes

In accordance with the requirements of Section 4.52 of Regulations, 29 CFR Part 4, the prevailing health and welfare fringe benefits issued under the McNamara-O'Hara Service Contract Act (SCA) will increase on June 1, 2004. As prescribed by the Regulations the new benefit rate is derived from the latest Bureau of Labor Statistics Employment Cost Index (ECI) publication of Employer Costs for Employee Compensation.

Based on the regulations adopted in 1996, SCA wage determinations have contained two different health and welfare fringe benefit levels – a "low" level benefit and a "high" level benefit. The low level benefit has been updated every year on June 1, based upon the latest BLS data, and the high level benefit has been grandfathered at \$2.56 per hour. Each benefit level has its own method for determining compliance with the fringe benefit requirements of the SCA. Compliance with the low level benefit is determined on an employee-by-employee basis whereas compliance with the high level benefit is determined based on the contractor's average fringe benefit cost for all service employees working on the contract.

Based upon the latest BLS publication of Employer Costs for Employee Compensation, published on February 26, the low level benefit will be \$2.59 per hour or \$103.60 per week or \$448.93 per month, effective June 1, 2004. The SCA regulations also state that the low level benefit rate will supercede the high level benefit rate; however, the regulations do not state that the average cost method of compliance will be eliminated. Therefore, on June 1, 2004 the average cost fringe benefit rate also will be \$2.59 per hour. Consistent with the policy established in 1996, the average cost fringe benefit wage determinations will be issued only for those contracts where the formerly grandfathered "high" benefit rate would have applied.

Over the course of the next year, the Wage and Hour Division will solicit input from SCA stakeholders to evaluate whether regulatory changes are warranted in the methods for determining compliance with the health and welfare provisions of SCA wage determinations. In the meantime, however, the status quo will be maintained and the average cost will continue to apply to those contracts that previously had the grandfathered high fringe benefit rate determinations.

Working to Improve the Lives of America's Workers

Solicitation/Contracts Affected

All Invitations for Bids opened, or other service contracts awarded on or after June 1, 2004 must include an updated SCA wage determinations (WD) issued in accordance with the regulatory health and welfare fringe benefit determination methodology. Contracting agencies may make pen and ink changes to their current WD received for contracts beginning on or after June 1, 2004 and for which the updated health and welfare rates were not included. It is not required that contracting agencies request a revised WD for only a health and welfare rate change.

Wage Determinations for the State of Hawaii

Under Section 2(a) (2) of the Service Contract Act, fringe benefit payments that are required by state law may not be used to satisfy the employer's fringe benefit obligations. In Hawaii, most employers are required, by law, to provide health insurance coverage for their employees. Therefore, employer contributions that are made to satisfy the employer's obligations under the Hawaii mandated prepaid Health Care Act may not be credited toward meeting the contractor's obligations under SCA. The SCA WD's address this issue by excluding the health insurance portion from the benefit rate. Currently, most Hawaii WDs specify a health and welfare benefit amount of \$1.01 per hour.

Consistent with past practices, and in recognition of the fact that Hawaii law requires employers to provide health care coverage for most employees, the SCA WDs for Hawaii will continue to exclude the health insurance portion of the benefits for all employees on whose behalf the employer provides benefits pursuant to the Health Care Act. However, all employers are not required to make and, in fact, do not make contributions for certain employees under the Hawaii law. If this is the case, then the reduced fringe benefit level is not appropriate for these employees.

Therefore, effective June 1, 2004 the new SCA health and welfare fringe benefits level for Hawaii will be \$1.09 per hour, or \$43.60 per week, or \$188.93 per month for all employees on whose behalf the contractor provides health care benefits pursuant to the Hawaii Health Care Act. For those employees who are not receiving mandated health care benefits, the new health and welfare amount rate will be \$2.59 per hour.

The grandfathered average cost fringe benefit determinations for Hawaii currently provide for payments costing an average \$1.64 per hour. Since this rate is still above the new \$1.09 per hour rate for Hawaii, the current \$1.64 average cost fringe benefit level for Hawaii will continue to be grandfathered.